

## Planning Services

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### Plan Finalisation Report

**Local Government Area:** Ryde

**File Number:** 17/14257

#### 1. NAME OF DRAFT LEP

Ryde Local Environmental Plan 2014 Amendment No.15 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to land at 86 Blenheim Rd, 12A and 14 Epping Rd, North Ryde (the site). The site adjoins Blenheim Park, has a combined site area of 2004 square metres and includes three detached dwelling houses.

The existing LEP provisions for the site are:

- Zone R2 Low Density Residential;
- a maximum floor space ratio (FSR) of 0.5:1; and
- a maximum building height of 9.5 metres.

#### 3. PURPOSE OF PLAN

The draft LEP seeks to:

- rezone the site from R2 Low Density Residential to RE1 Public Recreation;
- remove the maximum FSR;
- remove the maximum height of buildings;
- remove the minimum lot size; and
- identify the site as "Local Open Space" on the Land Reservation Acquisition Map.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Ryde Electorate. Hon. Victor Dominello MP is the State Member for Ryde.

Mr John Alexander MP is the Federal Member for Bennelong.

The State member for Ryde has made representations on behalf of his constituents in support of the planning proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal.
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<b>NSW Government reportable political donation:</b> There are no donations or gifts to disclose and a political donation disclosure is not required.
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## 5. GATEWAY DETERMINATION

The Gateway determination issued on 10 October 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions.

The Gateway Determination required that prior to community consultation, Council must:

- Revise the City of Ryde Integrated Open Space Plan 2012 to include new population projections and new open space either supplied or proposed in Macquarie Park; and
- amend the planning proposal to reflect the findings and recommendations of a revised City of Ryde Integrated Open Space Plan.

Council commissioned the “Macquarie Park Corridor 2016 update” (**Attachment F**) to the City of Ryde Integrated Open Space Plan 2012 (Plan) which identifies an estimated population increase of 40,000 residents in the Macquarie Park Corridor to 2036. The Plan recommends identifying land for acquisition to expand existing open spaces, particularly within 200 metres of the Macquarie Park Corridor. The site is within 200 metres of Macquarie Park.

The revised Plan, based on up to date population projections, supports the need for additional open space to serve the Macquarie Park Corridor.

## 6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 10 May to 16 June 2017.

A total of 218 submissions were received by Council, of which 191 (87.6%) submissions supported the proposal and 27 (12.4%) submissions opposed the proposal progressing. Landowners provided submissions as part of the exhibition and the matters raised were reported to Council.

The main points raised in support of the proposal:

- increased housing density is placing significant pressure on local open space; and
- the land is connected with Blenheim Park and well located to expand the already well-used recreation facilities.

In response to the submissions in support, Council reiterated that population growth over the next 20 years will place pressure on local open space. The expansion of Blenheim Park will service existing residents of North Ryde and the future residents of residential developments currently under construction in Macquarie Park.

The main points opposing the proposal:

Issue	Council response
There are better locations for open space than adjacent to a highway.	The expansion of Blenheim Park will enhance its recreation potential.
Large amounts of open space already exist in the area.	Population growth will place pressure on existing open space.
Money should be spent on other things such as schools, roads and existing open space.	Section 94 imposes developer contributions to deliver local infrastructure, such as open space. Schools and major roads are funded by the NSW State Government.

Suspicion that no height restriction is proposed on the land.	Development provisions such as maximum building height do not apply to any land zoned RE1.
Funding source to purchase land.	Council advise that the purchase of the site will be funded by Section 94 developer contributions.
Inadequate consultation with landowners.	Council exhibited the proposal for 38 days. Landowners provided written submissions which were reported to Council.
Prior to lodging the proposal there was no consultation with the owners of the land, no permission granted.	There is no requirement for owners consent to be obtained prior to proceeding with a planning proposal.
Proposal sets a precedent for council to forcefully acquire land without notice.	In NSW all levels of government can acquire privately owned land for public purposes.
Council has no provision for existing low income residents of the site.	Lease agreements between the occupiers of the site and the owners are not a matter for Council comment.
Council needs to purchase the land before rezoning to open space.	There is no requirement to purchase land prior to rezoning for public open space.
Matters relating to the process of acquiring the land.	The acquisition of land is undertaken in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .

Based on current population projections, the need to supply local open space and the level of community support for the proposal Council resolved to submit the proposal to the Department with a request for it to proceed. The Department is satisfied with Council's assessment of the submissions and supports Council's request to proceed to finalisation of the proposal.

## 7. ADVICE FROM PUBLIC AUTHORITIES

The Gateway Determination did not require consultation with any public authorities. No submissions were received from public authorities.

## 8. POST EXHIBITION CHANGES

The proposal has not been amended following community consultation. However, it should be noted that Council included the removal of the site from the minimum lot size map in the exhibition material, but did not list the lot size map in the planning proposal document.

It is recommended that this oversight be endorsed without requiring further exhibition as it does not change the intent of the planning proposal as exhibited.

## 9. ASSESSMENT

Public submissions have been considered in detail and it is recommended that the draft LEP be supported for the following reasons:

- Council has satisfied all conditions of the Gateway determination;
- the proposal has been updated to reflect the recommendations of Council's revised Integrated Open Space Plan;
- the proposal is consistent with A Plan for Growing Sydney as it is planning for social infrastructure to support growing communities;
- the proposal is consistent with draft North District Plan as it contributes to metropolitan green space;
- Council has consulted with the land owners and responded to their concerns; and
- the proposal seeks to reserve land for public open space in an area with projected population growth.

### Section 117 Directions

The proposal had a minor inconsistency with Section 117 Direction 3.1 Residential Zones which was agreed to by the Secretary's delegate when the Gateway determination was issued.

Direction 6.2 Reserving Land for Public Purposes applies to the planning proposal as it will create a reservation of land for public purposes, which requires the approval of the relevant public authority and the Secretary of the Department. The Deputy Secretary, Planning Services issued the Gateway determination for the planning proposal, thus the Secretary of the Department has not approved the planning proposal. Council has requested the land be reserved for public purposes, has proposed an appropriate zone and identified itself as the relevant acquisition authority. The delegate of the Secretary can be satisfied that the inconsistency is of minor significance.

### State Environmental Planning Policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs.

## **10. MAPPING**

The planning proposal has five maps associated with the LEP amendment. These include an updated Land Zoning map (LZN\_009), an updated FSR map (FSR\_009) an updated Height of Buildings map (HOB\_009), an updated Minimum Lot Size map (LSZ\_009) and an updated Land Reservation Acquisition map (LRA\_009).

All maps have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

## **11. CONSULTATION WITH COUNCIL**

Under section 59(1) of the Act, Council was consulted on the terms of the draft instrument **(Attachment D)**. Council's response to the draft LEP was received on 16 October 2017 supporting the LEP be made **(Attachment E)**.

## **12. PARLIAMENTARY COUNSEL OPINION**

On 16 October 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC.

### **13.RECOMMENDATION**

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because:

- it is consistent with the population projections and need for open space;
- is supported by Ryde City Council; and
- has met all conditions of the Gateway determination.

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